S.B.Criminal Revision Petition No.1043/2007

Rashid Mohd.
v.
State of Rajasthan

Date of Order :: 23rd October, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Deepak Menaria, for the petitioner.
Mr. Vishnu Kachhawaha, Public Prosecutor.

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This petition under Section 397 read with 401 Cr.P.C. is preferred to challenge validity, propriety and correctness of the order dated 13.9.2007 passed by Additional Sessions Judge (Fast Track) No.1, Udaipur rejecting an application preferred by the petitioner under Sections 451 and 457 Cr.P.C.

In brief, facts of the case are that a Tavera Car No.RJ-27-TA-0533 was confiscated by the investigating agency being said to be utilised in murder of Miss Kiran. An application was preferred by the petitioner being registered owner of the vehicle referred above to release the same. Learned Additional Sessions Judge by order impugned rejected the same on the count that the vehicle is a material evidence in the murder case and also on the count that two applications of similar nature were rejected earlier.

Under Sections 451 and 457 Cr.P.C. a broad discretion is given to a criminal court to hand over

custody of a property pending the conclusion of a trial and such discretion is always required to be exercised judiciously and objectively. Such approach of the court should appear in the orders by reasons. In the instant matter learned Additional Sessions Judge by order impugned rejected the application ipse-dixit without dealing with the reasons given in the application preferred under Section 451 Cr.P.C. The court has not given any reason to continue judicial custody of the movable property in question that may decay by flux of time.

For the reasons above, this revision petition is allowed. The order impugned dated 13.9.2007 is quashed with a direction to Additional Sessions Judge (Fast Track) No.1, Udaipur to decide the application preferred by the petitioner under Sections 451 and 457 Cr.P.C. afresh. The trial court while deciding the application shall give adequate reasons to substantiate its conclusion.

(GOVIND MATHUR),J.

Kkm/ps.